



OFFICE *of the* ATTORNEY GENERAL  
GREG ABBOTT

April 11, 2003

Ms. Angela M. DeLuca  
Assistant City Attorney  
City of College Station  
P.O. Box 9960  
College Station, Texas 77842-9960

OR2003-2470

Dear Ms. DeLuca:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 179225.

The City of College Station (the "city") received a request for the notes of an officer of the College Station Police Department (the "department") concerning a particular traffic stop involving the requestor. The city claims that the requested information is excepted from disclosure pursuant to section 552.108 of the Government Code. We have considered the exception you claim and have reviewed the submitted information.

Section 552.108 of the Government Code provides in pertinent part:

(a) Information held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime is excepted ... if:

(1) release of the information would interfere with the detection, investigation, or prosecution of crime[.]

....

(b) An internal record or notation of a law enforcement agency or prosecutor that is maintained for internal use in matters relating to law enforcement or prosecution is excepted ... if:

(1) release of the internal record or notation would interfere with law enforcement or prosecution[.]

Gov't Code 552.108(a), (b). Generally, a governmental body claiming section 552.108 as an exception to disclosure of requested information must demonstrate how and why release of the requested information would interfere with law enforcement. *See* Gov't Code § 552.108(a), (b), .301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state that the submitted information is related to a criminal case that resulted in deferred adjudication. You contend that the case is still pending, as the period of deferred adjudication is not complete and the case could still be appealed. However, based on our review of your arguments and the submitted information, we find that you have not adequately demonstrated that the information relates to a pending investigation or prosecution, or that the release of the submitted information would otherwise interfere with the detection, investigation, or prosecution of crime. Gov't Code § 552.108(a). Accordingly, we conclude that the department may not withhold this particular information from disclosure pursuant to section 552.108(a)(1). *See Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977); *cf.* Gov't Code § 552.108(a)(2) (excepting information that relates to a case that has concluded in a final result *other than* conviction or deferred adjudication). The requested information must be released to the requestor in its entirety.

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at (877) 673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Texas Building and Procurement Commission at (512) 475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. We note that a third party may challenge this ruling by filing suit seeking to withhold information from a requestor. Gov't Code § 552.325. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



Heather Pendleton Ross  
Assistant Attorney General  
Open Records Division

HPR/sdk

Ref: ID# 179225

Enc: Submitted documents

c: Mr. Jason McKinnie  
412 A First Street  
College Station, Texas 77840  
(w/o enclosures)